

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

GABRIEL PLASCENCIA and
ALEJANDRO ASTIAZARAN,

Plaintiffs,

v.

JAMES McDANIEL, JANE DOE
McDANIEL; and their marital community;
DAVID CALLAHAM, JANE DOE
CALLAHAM, and their marital community;
and ROSE MANOR, INC.,

Defendants.

No.: C08-5453 RJB

STIPULATION AND AGREED ORDER
STRIKING AFFIRMATIVE DEFENSE OF
FRAUD FOR FAILURE TO PLEAD WITH
PARTICULARITY

STIPULATION

Defendants Callaham and Rose Manor, Inc. (hereinafter, collectively, "Defendants") filed an Amended Answer, Counterclaims and Affirmative Defenses on May 14, 2010 that asserted 15 affirmative defenses. Plaintiffs have filed a motion, now pending, to strike Defendants' 12th affirmative defense, which alleged fraud in the inducement, on the ground that Defendants failed to plead that defense with the particularity required by FRCP 8(b) and FRCP 9(b).

With this stipulation, the parties have agreed that the Court may enter an order

1 striking Defendants' 12th affirmative defense, without further delay and without considering
2 Plaintiffs' pending motion.

3 DATED: May 20, 2010.

4 BULLIVANT HOUSER BAILEY PC

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6 By /s/ Connie Sue Martin

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11 HEURLIN, POTTER, JAHN, LEATHAM &
12 HOLTSMANN, P.S.

13 By /s/ Connie Sue Martin with authorization for

14 Stephen G. Leatham, WSBA #15572

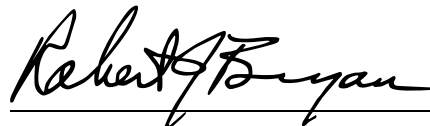
E-Mail: sgl@hpl-law.com

15 Attorneys for Defendants David Callahan and
16 Rose Manor, Inc.

17 **ORDER**

18 It is hereby ORDERED. Defendants' 12th affirmative defense alleging fraud in the
19 inducement shall be stricken from Defendants' Amended Answer, Affirmative Defenses, and
20 Counterclaims.

21 DATED this 21 day of May, 2010.

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24 ROBERT J. BRYAN

25 UNITED STATES DISTRICT JUDGE

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